



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

CRS
Docket No: 4346-99
26 August 1999

From: Chairman, Board for Correction of Naval Records
To: Secretary of the Navy

Subj: REVIEW OF NAVAL RECORD OF [REDACTED]

Ref: (a) 10 U.S.C. 1552
(b) BUPERS 1900.8

Encl: (1) DD Form 149 w/attachments
(2) Case Summary
(3) Subject's naval record

1. Pursuant to the provisions of reference (a), Petitioner, a former enlisted member of the United States Navy, filed enclosure (1) with this Board requesting, in effect, that her naval record be corrected by changing the reason for separation and reenlistment code assigned on 6 May 1998.

2. The Board, consisting of Ms. Humberd, Mr. Ivins, and Mr. Caron, reviewed Petitioner's allegations of error and injustice on 4 August 1999 and, pursuant to its regulations, determined that the corrective action indicated below should be taken on the available evidence of record. Documentary material considered by the Board consisted of the enclosures, naval records, and applicable statutes, regulations and policies.

3. The Board, having reviewed all the facts of record pertaining to Petitioner's allegations of error and injustice finds as follows:

a. Before applying to this Board, Petitioner exhausted all administrative remedies available under existing law and regulations within the Department of the Navy.

b. Enclosure (1) was filed in a timely manner.

c. Petitioner underwent a pre-enlistment physical examination on 7 April 1998. At that time, her hearing was found to be barely within the standards for enlistment.

d. Petitioner enlisted in the Navy on 21 April 1998 at age 20. She did not have any disciplinary action during her brief period of service.

e. On 1 May 1998 the commanding officer directed Petitioner's

separation based on a medical evaluation that diagnosed her with a high frequency hearing loss in her left ear secondary to acoustic trauma. In this regard, it appears that during the two weeks between her physical examination and enlistment, Petitioner witnessed and was in close proximity to a drive-by shooting. On 6 May 1998 she received an entry level separation by reason of "Failed Medical/Physical Procurement Standards". At that time she was assigned a reenlistment code of RE-4.

f. Reference (b) indicates that for an individual in Petitioner's situation, an RE-4 reenlistment code must be assigned if the reason for separation is a failure of medical or physical procurement standards. Change 1 to that reference distributed in 1996, states that an RE-3E reenlistment code may be assigned to individuals separated for that reason. However, the Board recently has been advised that Change 1 was erroneously released and has no force and effect.

g. Petitioner argues that she did not have a hearing loss and submitted documents to support her contention. However, the documents she submitted appear to show that the hearing in her left ear is not within standards.

CONCLUSION:

Upon review and consideration of all the evidence of record, the Board concludes that Petitioner's request warrants favorable action. The Board concludes that whether or not Change 1 of reference (b) was effective, the reenlistment code of RE-3E should now be assigned since there is no evidence that Petitioner had any performance problems or disciplinary infractions during her brief period of service. Accordingly, the Board concludes that her record does not support the most stigmatizing reenlistment code of RE-4. However, the Board believes that at the time of separation, she did not meet the hearing standards and, accordingly, she was properly separated.

In view of the foregoing, the Board finds the existence of an injustice warranting the following corrective action.

RECOMMENDATION:

a. That Petitioner's naval record be corrected to show that on 6 May 1998, Petitioner was assigned an RE-3E reenlistment code instead of the RE-4 reenlistment code actually assigned on that date.

b. That no further relief be granted.


c. That any material or entries inconsistent with or relating to the Board's recommendation be corrected, removed or completely expunged from Petitioner's record and that no such entries or

material be added to the record in the future.

d. That any material directed to be removed from Petitioner's naval record be returned to the Board, together with a copy of this Report of Proceedings, for retention in a confidential file maintained for such purpose, with no cross reference being made a part of Petitioner's naval record.

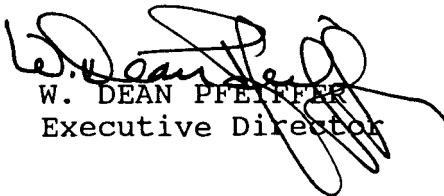
4. It is certified that a quorum was present at the Board's review and deliberations, and that the foregoing is a true and complete record of the Board's proceedings in the above entitled matter.

ROBERT D. ZSALMAN
Recorder



ALAN E. GOLDSMITH
Acting Recorder

5. Pursuant to the delegation of authority set out in Section 6(e) of the revised Procedures of the Board for Correction of Naval Records (32 Code of Federal Regulations, Section 723.6(e)) and having assured compliance with its provisions, it is hereby announced that the foregoing corrective action, taken under the authority of reference (a), has been approved by the Board on behalf of the Secretary of the Navy.



W. DEAN PFEIFFER
Executive Director